



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

JUL 09 2003

**Via Federal Express**

CT Corporation System  
Registered Agent for  
Dow Chemical Company  
350 N. St. Paul St., Suite 2400  
Dallas, TX 75201

Re: Request for Information Pursuant to Section 104(e)(2) of  
CERCLA (42U.S.C. Sec. 9604(e)(2))  
Gulfco Marine Maintenance, Inc.  
City of Freeport, Brazoria County, Texas

Dear Sir or Madam:

The purpose of this letter is to solicit information from you relating to the Gulfco Marine Maintenance Site (Gulfco), located at 906 Marlin Ave., City of Freeport, Brazoria County, Texas (hereinafter the "Site"). The United States Environmental Protection Agency ("EPA") has located your name in records pertaining to this Site and believes you may have information relating to the Site. In accordance with Section 104(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9604(e)(2), EPA has authority to request information of this nature. This letter seeks your cooperation in providing information and documents relating to the contamination of the Site.

**This information request is not a determination that you are responsible or potentially responsible for contamination that occurred at the Site.** The EPA is sending you this letter as part of its investigation of the circumstances related to the Site and does not expect you to pay for or perform any site-related activities at this time. Should EPA determine that you are responsible or potentially responsible for response activity at the Site, you will receive a separate letter clearly stating such a determination as well as the basis EPA has for making such a determination.

The information EPA is seeking concerns operations and other activities at the Site, as well as information relating to the generation, storage, treatment, transportation, and disposal methods of hazardous substances, pollutants, or contaminants that were released at the Site. In addition, EPA seeks to identify parties, activities, and materials that contributed to contamination at the Site.

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EPA believes you may have information which may assist us in our investigation of the Site. We encourage you to give this matter your full attention, and **we ask that you respond to this request for information within thirty (30) days of your receipt of this letter. Failure to respond to such an information request may result in EPA seeking penalties of up to \$27,500 per day of violation.** In addition, furnishing false, fictitious, or fraudulent statements or representations to EPA is subject to criminal penalty under 18 U.S.C. § 1001.

#### Site Background

The Site encompasses 40 acres in Freeport, Brazoria County, Texas. The facility historically was used as a barge cleaning and servicing facility. The Site encompasses three buried and backfilled surface impoundments that received contaminated wash water from the barge cleaning operations, areas of contaminated soil, and releases to surface water and ground water. The Site was added to the National Priorities List on May 30, 2003, based on evidence that hazardous substances, including semi-volatile organic compounds, lead, zinc, and pesticides have migrated from the facility to the Intracoastal Waterway, pose a threat to nearby drinking water supplies and downstream sensitive environments, and have impacted fisheries downstream of the facility.

The facility operated as a barge cleaning and waste disposal facility from 1971 through 1979. Operations at the facility involved the cleaning, servicing, and repair of various chemical barges. Chemical barges were drained and pumped to remove product heels, which then were stored in tanks and sold as product. Each barge was washed with water or a detergent solution. Generated wash waters were stored either in surface impoundments, a floating barge, or above ground storage tanks.

The surface impoundments received wash water from the cleaning of barges and other transport vessels that carried organic substances including alcohols, ketones, and crude oil. Waste wash water generated during the cleaning of chemical barges and other vessels was hard-piped to the surface impoundments for evaporation and separation. The maximum inventory of waste at any given time was 5.5 million gallons. The surface impoundments were certified closed in August 1982, following removal of the liquids and sludges, solidification of the remaining sludge with soil, and capping with three feet of clay cover and a hard wearing surface. Some sludge reportedly remained in one of the surface impoundments at the time of closure.

Underlying the Site is the Chicot/Evangeline aquifer system. This aquifer system is a major source of municipal and smaller public water supply systems in the Freeport area. The largest public water supply system within four miles of the Site is that of the City of Freeport, which supplies approximately 11,300 people.

The Site lies within the 100-year coastal flood plain along the north bank of the Intracoastal Waterway between Oyster Creek to the east and the Old Brazos River Channel and the Dow Barge Canal to the west. The southern part of the Site drains to the south where it enters the Intracoastal

Waterway. The surface water migration pathway extends in all directions within contiguous surface water bodies, since these surface water bodies are tidally influenced. Surface water flows eastward into Drum Bay, Christmas Bay, Bastrop Bay, and Galveston Bay. Galveston Bay is the seventh largest estuary in the United States and is designated as a National Estuary as part of the National Estuaries Program. In addition, Christmas Bay is designated as the Christmas Bay Coastal Preserve of the Texas Coastal Preserve Program, and harbors eight endangered or threatened species including the Bald Eagle, Brown Pelican, Peregrine Falcon, Whooping Crane, Piping Plover, Reddish Egret, White-faced Ibis, and Green Sea Turtle. The 12,199-acre Brazoria National Wildlife refuge is located to the south of Bastrop Bayou and contains the habitats of three state-threatened species, including the Wood Stork, White-tailed Hawk, and the Swallow-tailed Kite. A wetland area is located approximately 500 feet south of the Site across the Intracoastal Waterway. This area is classified as intertidal estuarine, emergent, persistent, and regularly flooded.

#### Description of Legal Authority

Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), responsible parties are those persons who are current owners or operators of the facility; past owners or operators who owned or operated the facility at the time hazardous substances were disposed of at the facility; persons who arranged for disposal or treatment of hazardous substances at the facility (usually the person(s) who generated the hazardous substances); or persons who selected the facility and transported the hazardous substances to the facility. Section 107(a) of CERCLA also states that responsible parties are liable to the United States for the costs incurred in the removal or remedial action performed at the Site.

The Federal "Superfund" law (Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, also commonly referred to as CERCLA) gives EPA the authority to, among other things: (1) assess contaminated sites; (2) determine the threats to human health and the environment posed by each site; and (3) clean up those sites. CERCLA also provides EPA with several methods of obtaining various types of information from a wide range of entities. Section 104(e), entitled "Information Gathering and Access," grants EPA the authority to issue "Information Requests."

#### Information Requests

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority which allows EPA to require persons to furnish information and documents relating to the history of the ownership and operation of the site, waste generation at the site, and waste disposal practices at the site. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 CFR 2.310(h), even if you assert that all or part of the information is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more

of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request.

While EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under Federal law. **Under section 104(e)(5)(B)(ii) of CERCLA, the EPA may request a court to impose penalties of up to \$27,500 per day for non-compliance with this Information Request.** Although you may consider some of the information EPA is requesting to be confidential, please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Enclosure 1 (Information Request, Gulfco Marine Maintenance, Inc.), including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination found at the Site, that information should be submitted along with your response to this Information Request. Please direct your response to this letter and questions regarding the matters in this letter to:

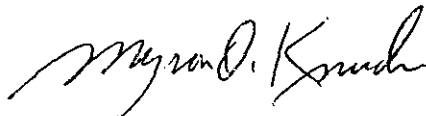
Ms. Janice Bivens  
Enforcement Officer  
Superfund Cost Recovery Section (6SF-AC)  
United States Environmental Protection Agency  
Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733  
Telephone: (214) 665-6717  
Fax: (214) 665-6660  
Email: [bivens.janice@epa.gov](mailto:bivens.janice@epa.gov)

If you or your attorney have legal questions pertaining to this matter, please direct them to:

Ms. Barbara A. Nann  
Superfund Attorney (6RC-S)  
United States Environmental Protection Agency  
Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733  
Telephone: (214) 665-2157  
Fax: (214) 665-6460  
Email: [nann.barbara@epa.gov](mailto:nann.barbara@epa.gov)

We ask your cooperation in providing this information to EPA. Thank you for your time and attention to this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Myron O. Knudson". The signature is fluid and cursive, with the first name "Myron" being more prominent.

Myron O. Knudson, P.E.  
Director  
Superfund Division

Enclosures

ENCLOSURE 1

INFORMATION REQUEST  
INSTRUCTIONS  
GULFCO MARINE MAINTENANCE, INC.  
FREEPORT, TEXAS

Under the authority of Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA is requesting you to respond to this Information Request. Compliance with this Information Request is required by law. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties.

1. Answer Every Question Completely. A separate response must be made to each of the questions set forth in the Information Request. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. Precede each answer with the corresponding number of the question and the subpart to which it responds..
3. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Information Request.
4. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
5. Continuing Obligation to Provide/Correct Information. Pursuant to CERCLA Section 104(e)(2), if additional information or documents responsive to this Request become known or available to you after you respond to this Request, you shall supplement your response to EPA.
6. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. § 9604(e)(7)(E) and (F), and Section 3007(b) of RCRA, 42 U.S.C. § 6927(b), and 40 C.F.R. § 2.203(b). To prove your claim of confidentiality, each document must separately address the following points:

- a. The portions of the information alleged to be entitled to confidential treatment;
- b. The period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. Measures taken by you to guard against the undesired disclosure of the information to others;
- d. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. Pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- f. Whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit both a clean and a redacted version of any documents or response for which you claim confidential in a separate envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information, that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). **If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.**

7. Disclosure to EPA Contractor. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) days of receiving this Information Request.

8. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on a separate sheet(s), and marked as "Personal Privacy Information".

9. Objections to Questions. Even if you have objections to some or all the questions within the Information Request, you are still required to respond to each of the questions.

### **DEFINITIONS**

The following definitions shall apply to the following words as they appear in these Enclosures (Information Request, Definitions, Instructions, and Questions, Gulfco Maine Maintenance, Inc.). All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or the Resource Conservation and Recovery Act ("RCRA"), in which case the statutory or regulatory definitions shall apply.

1. The terms "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
2. The term "any" (e.g., as in "any documents"), shall mean "any and all."
3. The term "arrangement" shall mean every separate contract or other agreement between two or more persons, whether written or oral.
4. The term "asset" shall include the following: real estate, buildings or other improvements to real estate, equipment, vehicles, furniture, inventory, supplies, customer lists, accounts receivable, interest in insurance policies, interests in partnerships, corporations and unincorporated companies, securities, patents, stocks, bonds, and other tangible as well as intangible property.
5. The term "document(s)" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings/agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telescope, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, photograph, sound recording on any type of device, punch card, disc pack, tape or other type of memory generally associated with computers and data processing (including printouts and the programming instructions and other written material



necessary to use such punch card, disc, or disc pack, tape or other type of memory), every copy of each document which is not an exact duplicate of a document which is produced, every copy of each document which has any writing on it (including figures, notations, annotations, or the like), drafts of documents, attachments to or enclosures with any document, and every document referred to in any other document.

6. The term "generator" shall mean persons who arranged for the disposal or treatment of hazardous substances at the place (i.e., the Gulfco Marine Maintenance Site) where the hazardous substances were released.
7. The term "hazardous material" shall mean any hazardous substances, pollutants or contaminants, and hazardous wastes, as defined below.
8. The term "hazardous substance" shall have the same definition as that contained in Subsection 101(14) of CERCLA, 42 U.S.C. Section 9601(14), and includes any mixtures of such hazardous substances with any other substances.
9. The term "hazardous waste" shall have the same definition as that contained in Subsection 1004(5) of RCRA, 42 U.S.C., Section 9603(5), and 40 CFR Part 261.
10. The term "identify" shall mean, with respect to a natural person, to set forth the person's name, present or last known business, present or last known job (including job title and position), and personal addresses and telephone numbers.
11. The term "identify" shall mean, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (e.g., corporation [including state of incorporation], partnership, etc.), organization, if any, a brief description of its business, and to indicate whether or not it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist.
12. The term "identify" shall mean, with respect to a document, to provide the type of document. This information includes the document's customary business description, its date, its number (e.g., invoice or purchase order number), if any, subject matter, the identify of the author (including the addressor and the addressee and/or recipient), and the present location of such document.
13. The term "identify" shall mean, with respect to a piece of real property or property interest, to provide the legal description which appears in the county property records office, or in the equivalent office which records real property transactions for the area which includes the real property in question.

14. The term "material(s)" shall mean any and all objects, goods, substances, or matter of any kind including, but not limited to, wastes.
15. The term "operator" shall mean those persons who once owned or operated the place (i.e., Gulfco Marine Maintenance , Corp., Hercules Marine Services Corporation, etc.) where hazardous substances were released during the time when the hazardous substances were disposed.
16. The term "owner" shall mean the person who now owns the property (i.e., LDL Coastal Limited, L.P.) where the hazardous substances were released or person(s) who previously owned the property.
17. The term "person" shall have the same definition as in Subsection 101(21) of CERCLA, 42 U.S.C., Section 9601(21), and shall include any individual, firm, unincorporated association, partnership, corporation, trust, consortium, joint venture, commercial entity, United States government, State and political subdivision of a State, municipality, commission, any interstate body, or other entity.
18. The terms "pollutant" or "contaminant," shall have the same definition as that contained in Subsection 101(33) of CERCLA, 42 U.S.C., Section 9601(33), and includes any mixtures of such pollutants and contaminants with any other substances. The term shall include, but not be limited to, any element, substance, compound, or mixture. The term shall also include disease-causing agents which after release into the environment will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunction in reproduction), or physical deformations.
19. The term "property interest" shall mean any interest in property including, but not limited to, any ownership interest, an easement, a deed, a lease, a mining claim, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.
20. The term "real estate" shall mean and include, but not be limited to, the following: land, buildings, homes, dwelling places, condominiums, cooperative apartments, offices or commercial buildings. The term includes real estate located outside of the United States.
21. The term "release" has the same definition as that contained in Subsection 101(22) of CERCLA, 42 U.S.C., Section 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the

environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

22. The terms "Site" or "Facility" shall mean and include operations at the approximately forty (40) acre facility located at 906 Marlin Ave., Freeport, Brazoria County, Texas.
23. The term "solid waste" shall have the same definition as that contained in Subsection 1004(27) of RCRA, 42 U.S.C., Section 9603(27), and 40 CFR Part 261.
24. The terms "transaction" or "transact" shall mean any sale, transfer, giving, delivery, change in ownership, or change in possession.
25. The term "transporter" shall mean persons who selected the place (i.e., Gulfco Marine Maintenance Site) where the hazardous substances were released as a disposal site and transported the hazardous substances to that place.
26. The terms "you" or "Respondent" shall mean the addressee of this Request; including, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents.

## ENCLOSURE 2

### QUESTIONS GULFCO MARINE MAINTENANCE, INC. FREEPORT, TEXAS

#### A. General Information Concerning Respondent

1. Provide the full legal name and mailing address of the Respondent.
2. For each person answering these questions on behalf of the Respondent, provide full name, title, business address, and business telephone and facsimile number.
3. If Respondent wishes to designate an individual for all future correspondence concerning this Site, including legal notices, please provide the individual's name, address, telephone number, and facsimile number.
4. Please include a brief description of the nature and status of the Respondent's business relationship with Gulfco Inc., Gulfco Marine Maintenance, Inc., Fish Engineering and Construction, Inc., Hercules Marine Services Corporation, LDL Coastal Limited L.P., LDL Management LLC, and any other previous or current owner or operator of the site.

#### B. Specific Information relating to Site Operations

1. Identify all persons, including the Respondent, who may have arranged for disposal or treatment or arranged for transportation for disposal or treatment of materials, hazardous materials, hazardous substances, and/or hazardous wastes ("materials") from various facilities to the Site. This information shall identify and state, but not be limited to, the following:
  - a. The persons with whom the Respondent made such arrangements;
  - b. The precise locations from which these materials originated.
  - c. The nature, including the chemical content, characteristics, physical state (e.g., solid or liquid) and quantity (e.g., volume or weight) of all materials involved in each such arrangement;
  - d. All tests, analyses, analytical results, and manifests concerning each material involved in such transactions;

- e. The persons who selected the location to which the materials were to be disposed and/or treated. In particular, the persons who selected the Site as a location for disposal and/or treatment of the materials. This information shall include where these persons intended to have the materials involved in each arrangement treated or disposed and all evidence of their intent;
  - f. The amount paid in connection with each such arrangement, the method of payment, and the identity of the persons involved in each payment transaction;
  - g. Provide contracts or other documents reflecting such arrangements for transportation, disposal, and/or treatment of materials;
- 2. Provide names, addresses, and telephone numbers of any individuals, including former employees, who may have knowledge of operations at the site.
  - 3. List all federal, state, and local permits, identification numbers, and/or registrations issued to the Respondent's operation for the storage, transport, and/or disposal of materials. Include respective permit numbers.
  - 4. Provide names and addresses for all carriers who transported materials on behalf of Respondent to hazardous waste treatment, storage, or disposal facilities permitted by EPA or the State.
  - 5. Identify whether a Notification of Hazardous Waste Activity was ever filed with the EPA or the corresponding agency or official of the State. This information shall include, but not be limited to, the following:
    - a. The date of such filing; and
    - b. The wastes described in such notice:
      - (1) The quantity of the wastes described in such notice; and
      - (2) The identification number assigned to such facility by EPA or the State.
  - 6. Identify all federal, state, and local offices and agencies to which the Respondent has sent or filed hazardous substance or hazardous waste information and state the years during which such information was sent or filed.

**Via Certified Mail**

CT Corporation System  
Registered Agent for  
Dow Chemical Company  
350 N. St. Paul St., Suite 2400  
Dallas, TX 75201

Re: Request for Information Pursuant to Section 104(e)(2) of  
CERCLA (42U.S.C. Sec. 9604(e)(2))  
Gulfco Marine Maintenance, Inc.  
City of Freeport, Brazoria County, Texas

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